

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

STEVEN WAYNE BENDER,)	
)	Civil Action No. 05 - 998
Petitioner,)	
)	District Judge Donetta W. Ambrose
v.)	Chief Magistrate Judge Lisa Pupo Lenihan
)	
JAMES WYNDER, <i>et al.</i> ,)	
)	
Respondents.)	
)	

MEMORANDUM OPINION AND ORDER

This case is before the Court on Petitioner's Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60(b) (ECF No. 77) and his Application for Leave to Proceed *in forma pauperis* (ECF No. 75). The magistrate judge issued a Report and Recommendation on March 4, 2013, recommending that the Rule 60(b) Motion be denied and that the application to proceed *in forma pauperis* be dismissed as moot. (ECF No. 82.) The parties were served with the Report and Recommendation and informed that they had until July 2, 2013, to file written objections. Petitioner filed timely Objections on June 19, 2013. Upon review, the Court finds that Petitioner's Objections do not undermine the recommendation of the magistrate judge. Therefore, after *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and Objections thereto, the following order is entered.

AND NOW this 5th day of July, 2013,


IT IS HEREBY ORDERED that Petitioner's Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60(b) (ECF No. 77) is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's Application for Leave to proceed *in forma pauperis* (ECF No. 75) is **DISMISSED** as moot. Petitioner already paid the five dollar filing fee in this case on September 15, 2005. (ECF No. 3.) If Petitioner desires to appeal, then he should seek permission to proceed *in forma pauperis* from the Circuit Court.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation dated March 4, 2013 (ECF No. 82), is **ADOPTED** as the Opinion of this Court.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.


Donetta W. Ambrose
~~Chief United States Magistrate Judge~~
Sr. U.S. Dist. Judge

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